

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF TENNESSEE
3 NASHVILLE DIVISION

4 L.E., by his next friends and
5 parents, SHELLEY ESQUIVEL and
6 MARIO ESQUIVEL,

7 Plaintiff,

8 vs.

 No.: 3:21-cv-00835

9 BILL LEE, in his official
10 capacity as Governor of
11 Tennessee, et al.,

 Chief Judge Crenshaw

12 KNOX COUNTY BOARD OF
13 EDUCATION a/k/a KNOX COUNTY
14 SCHOOL DISTRICT; ROBERT M.
15 "BOB" THOMAS, in his official
16 capacity as Director of Knox
17 County Schools,

 Magistrate Judge
 Newbern

18 Defendants.

19 Videoconference Deposition of:

20 MELISSA A. CYPERSKI, Ph.D.

21 Taken on behalf of the Defendants
22 August 10, 2022

23 Commencing at 9:37 a.m.

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2 S T I P U L A T I O N S
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4 The videoconference deposition of
5 MELISSA A. CYPERSKI, Ph.D. was taken by counsel for
6 the Defendants, by Notice, with all participants
7 appearing at their respective locations, on
8 August 10, 2022, for all purposes under the
9 Tennessee Rules of Civil Procedure.

10 All objections, except as to the form of
11 the question, are reserved to the hearing, and said
12 deposition may be read and used in evidence in said
13 cause of action in any trial thereon or any
14 proceeding herein.

15 It is agreed that Deborah H. Honeycutt,
16 Notary Public and Licensed Court Reporter for the
17 State of Tennessee, may swear the witness remotely,
18 and that the reading and signing of the completed
19 deposition by the witness is not waived.
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* * *

THE REPORTER: Good morning. My name is Deborah Honeycutt. I am a stenographic reporter with Elite-Brentwood Reporting Services. My license number is 472.

Today's date is August 10, 2022, and the time is approximately 9:37 a.m. Central time.

This is the deposition of Melissa A. Cyperski, Ph.D. in the matter of L.E. by his next friends and parents, Shelley Esquivel and Mario Esquivel vs. Bill Lee, Governor of Tennessee, et al., filed in the United States District Court for the Middle District of Tennessee, Nashville Division. The Case Number is 3:21-cv-00835. This deposition is being taken by videoconference, and the oath will be administered remotely by me.

At this time, I'll ask counsel to identify yourselves and state whom you represent. If you have any objections with the procedures I've outlined, please state so when you introduce yourself. We will start with the noticing attorney.

MR. HILDABRAND: This is Clark
Hildabrand. I am representing the State Defendants
in this case, along with Travis Royer is here right

1 now, and Stephanie Bergmeyer will be joining later
2 in the deposition.

3 MS. BROWN: Again, Taylor Brown from the
4 American Civil Liberties Union for Plaintiff.

5 MS. BORELLI: This is Tara Borelli with
6 Lambda Legal for the plaintiff.

7 MS. BROWN: We also have with us Cameron
8 Vaughn for Plaintiff from the ACLU of Tennessee.
9 And then we also have -- Britany, do you want to
10 introduce yourself?

11 MS. RILEY-SWANBECK: Yes. This is
12 Britany Riley-Swanbeck from Wilmer Hale.

13 MR. SANDERS: And this is David Sanders
14 representing Knox County Board of Ed. and Dr. Jon
15 Rysewyk.

16
17 * * *

18 MELISSA A. CYPERSKI, Ph.D.,
19 was called as a witness, and after having been duly
20 sworn, testified as follows:

21
22 EXAMINATION

23 QUESTIONS BY MR. HILDABRAND:

24 Q. All right. Thank you for coming to testify
25 today. As we just said, my name is Clark

1 THE WITNESS: Those are the topics that
2 I addressed through my expert report.

3 BY MR. HILDABRAND:

4 Q. And just to go back on to expertise, you're
5 also not a sports physiologist, correct?

6 A. I am not a sports physiologist, no.

7 Q. You are not an expert in exercise science,
8 correct?

9 A. I am not.

10 Q. So turning to page three in the report,
11 paragraph 13?

12 A. We're there.

13 Q. Thank you. So you say here: At birth, most
14 people are assigned a sex, typically male or female
15 based solely on the appearance of their external
16 genitalia; is that correct?

17 A. Yes.

18 Q. And you did not offer an alternative
19 definition of sex in your report, correct?

20 MS. BROWN: Objection to form.

21 THE WITNESS: This statement reflects
22 that people are assigned a sex at birth typically
23 based on the appearance of their external genitalia.

24 BY MR. HILDABRAND:

25 Q. Do you provide a definition of sex other than

1 the report, right, that define our gender identity.

2 BY MR. HILDABRAND:

3 Q. So just to make sure I'm understanding you,
4 it could be that they have one sense but they could
5 sense that they have multiple identities?

6 MS. BROWN: Objection to form.

7 THE WITNESS: So I'm sharing that a
8 person has a gender identity that refers to their
9 own sense of gender, and what terminology or
10 understanding of their gender is is unique to each
11 individual.

12 BY MR. HILDABRAND:

13 Q. So if it's unique to each individual, have
14 you ever encountered someone who claims to have
15 multiple gender identities?

16 MS. BROWN: Objection to form.

17 THE WITNESS: I have met individuals in
18 my clinical practice who identify as gender fluid.

19 BY MR. HILDABRAND:

20 Q. Can you explain what gender fluid means?

21 A. Gender fluid is a gender identity in which an
22 individual may have an inner sense of gender that is
23 consistent with male, female, neither, or both, and
24 that that may fluctuate over time.

25 / /

1 BY MR. HILDABRAND:

2 Q. You said a minute ago that gender identity is
3 unique. How many gender identities would you
4 estimate there are?

5 MS. BROWN: Objection to form.

6 THE WITNESS: I do not currently have a
7 way to quantify the number of gender identities.
8 Again, the terminology is often changing and being
9 updated and there may be many gender identities or
10 individual gender identity may have an understanding
11 or a terminology that has not yet been published or
12 used by others.

13 BY MR. HILDABRAND:

14 Q. Fair enough. Just to get a sense of the
15 numbers that we are talking about, are there more
16 than two gender identities that you've encountered?

17 A. Yes, there are more than two gender
18 identities.

19 Q. Are there more than three gender identities?

20 A. There are more than three gender identities.
21 In fact, there's an infinite number of gender
22 identities.

23 Q. Thank you. Going down to paragraph 16 in
24 your report. This is on page four.

25 A. Did you say paragraph 16?

1 MS. BROWN: Objection to form.

2 THE WITNESS: None of my patients have
3 ever stopped or reversed a gender transition.

4 BY MR. HILDABRAND:

5 Q. Are you aware of any patients at VPATH who
6 have stopped or reversed a gender transition?

7 MS. BROWN: Objection to form.

8 THE WITNESS: I am aware of one case by
9 another provider in the Interdisciplinary Clinic of
10 an individual who identified as retransitioning.

11 BY MR. HILDABRAND:

12 Q. Can you give me any particulars you can
13 remember about that case without providing names of
14 the individual?

15 MS. BROWN: Objection to form.

16 THE WITNESS: Which particulars would
17 you be interested in?

18 BY MR. HILDABRAND:

19 Q. Sure. Have they been on puberty blockers at
20 any point in their treatment to the best of your
21 knowledge?

22 A. So the patient I am thinking of I did not
23 have contact with. And in fact I believe they may
24 have established care prior to the initiation of our
25 interdisciplinary clinic at VPATH with one of our

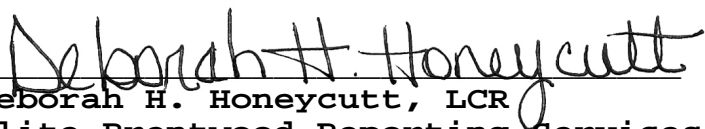
REPORTER'S CERTIFICATE

STATE OF TENNESSEE

COUNTY OF DAVIDSON

I, Deborah H. Honeycutt, Licensed Court Reporter, with offices in Hermitage, Tennessee, hereby certify that I reported the foregoing videoconference deposition of MELISSA A. CYPERSKI, Ph.D., by machine shorthand to the best of my skills and abilities, and thereafter the same was reduced to typewritten form by me. I am not related to any of the parties named herein, nor their counsel, and have no interest, financial or otherwise, in the outcome of the proceedings.

I further certify that in order for this document to be considered a true and correct copy, it must bear my original signature, and that any unauthorized reproduction in whole or in part and/or transfer of this document is not authorized, will not be considered authentic, and will be in violation of Tennessee Code Annotated 39-14-104, Theft of Services.


Deborah H. Honeycutt, LCR
Elite-Brentwood Reporting Services
Associate Reporter
Notary Public State of Tennessee

My Notary Public Commission Expires: 07/09/24
LCR # 472 - Expires: 06/30/24

